

AMENDMENTS TO LB 1020

Introduced by Business and Labor.

1           1. Strike the original sections and all amendments  
2 thereto and insert the following sections:

3           Section 1. Section 48-601, Revised Statutes Cumulative  
4 Supplement, 2008, is amended to read:

5           48-601 Sections 48-601 to 48-671 and section 5 of this  
6 act shall be known and may be cited as the Employment Security Law.

7           Sec. 2. Section 48-602, Revised Statutes Cumulative  
8 Supplement, 2008, is amended to read:

9           48-602 For purposes of the Employment Security Law,  
10 unless the context otherwise requires:

11           (1) Base period means ~~the last four completed calendar~~  
12 ~~quarters immediately preceding the first day of an individual's~~  
13 ~~benefit year, except that the commissioner may prescribe by rule~~  
14 ~~and regulation that base period means the first four of the last~~  
15 ~~five completed calendar quarters immediately preceding the first~~  
16 ~~day of an individual's benefit year, except that for benefit~~  
17 years beginning on or after July 1, 2011, if the individual is  
18 not monetarily eligible for unemployment benefits as determined  
19 pursuant to subdivision (5) of section 48-627 based upon wages  
20 earned during the first four of the five most recently completed  
21 calendar quarters, the department shall make a redetermination of  
22 entitlement based upon an alternative base period which consists of  
23 the last four completed calendar quarters immediately preceding the

1 first day of the claimant's benefit year;

2 (2) Benefits means the money payments payable to an  
3 individual with respect to his or her unemployment;

4 (3) Benefit year, with respect to any individual, means  
5 the one-year period beginning with the first day of the first week  
6 with respect to which the individual first files a valid claim  
7 for benefits, and thereafter the one-year period beginning with the  
8 first day of the first week with respect to which the individual  
9 next files a valid claim for benefits after the termination of his  
10 or her last preceding benefit year. Any claim for benefits made in  
11 accordance with section 48-629 shall be deemed to be a valid claim  
12 for the purpose of this subdivision if the individual has been  
13 paid the wages for insured work required under section 48-627. For  
14 the purposes of this subdivision a week with respect to which an  
15 individual files a valid claim shall be deemed to be in, within,  
16 or during that benefit year which includes the greater part of such  
17 week;

18 (4) Calendar quarter means the period of three  
19 consecutive calendar months ending on March 31, June 30, September  
20 30, or December 31, or the equivalent thereof as the Commissioner  
21 of Labor may by rule and regulation prescribe;

22 (5) Client means any individual, partnership, limited  
23 liability company, corporation, or other legally recognized entity  
24 that contracts with a professional employer organization to obtain  
25 professional employer services relating to worksite employees  
26 through a professional employer agreement;

27 (6) Combined tax means the employer liability consisting

1 of contributions and the state unemployment insurance tax;

2 (7) Combined tax rate means the rate which is applied to  
3 wages to determine the combined taxes due;

4 (8) Commissioner means the Commissioner of Labor;

5 (9) Contribution rate means the percentage of the  
6 combined tax rate used to determine the contribution portion of  
7 the combined tax;

8 (10) Contributions means that portion of the combined tax  
9 based upon the contribution rate portion of the combined tax rate  
10 which is deposited in the state Unemployment Compensation Fund as  
11 required by sections 48-648 and 48-649;

12 (11) Department means the Department of Labor;

13 (12) Employment office means a free public employment  
14 office or branch thereof, operated by this state or maintained as  
15 a part of a state-controlled system of public employment offices,  
16 including public employment offices operated by an agency of a  
17 foreign government;

18 (13) Fund means the Unemployment Compensation Fund  
19 established by section 48-617 to which all contributions and  
20 payments in lieu of contributions required and from which all  
21 benefits provided shall be paid;

22 (14) Hospital means an institution which has been  
23 licensed, certified, or approved by the Department of Health and  
24 Human Services as a hospital;

25 (15) Institution of higher education means an institution  
26 which: (a) Admits as regular students only individuals having a  
27 certificate of graduation from a high school or the recognized

1 equivalent of such a certificate; (b) is legally authorized in this  
2 state to provide a program of education beyond high school; (c)  
3 provides an educational program for which it awards a bachelor's  
4 degree or higher or provides a program which is acceptable for  
5 full credit toward such a degree, a program of postgraduate or  
6 postdoctoral studies, or a program of training to prepare students  
7 for gainful employment in a recognized occupation; and (d) is  
8 a public or other nonprofit institution; notwithstanding any of  
9 the foregoing provisions of this subdivision, all colleges and  
10 universities in this state are institutions of higher education for  
11 purposes of this section;

12 (16) Insured work means employment for employers;

13 (17) Leave of absence means any absence from work:

14 (a) Mutually and voluntarily agreed to by the employer and the  
15 employee; (b) mutually and voluntarily agreed to between the  
16 employer and the employee's bargaining agent; or (c) to which the  
17 employee is entitled to as a matter of state or federal law;

18 (18) Paid vacation leave means a period of time while  
19 employed or following separation from employment in which the  
20 individual renders no services to the employer but is entitled to  
21 receive vacation pay equal to or exceeding his or her base weekly  
22 wage;

23 (19) Payments in lieu of contributions means the money  
24 payments to the Unemployment Compensation Fund required by sections  
25 48-649, 48-652, 48-660.01, and 48-661;

26 (20) Professional employer agreement means a written  
27 professional employer services contract whereby:

1           (a) A professional employer organization agrees to  
2 provide payroll services, employee benefit administration, or  
3 personnel services for a majority of the employees providing  
4 services to the client at a client worksite;

5           (b) The agreement is intended to be ongoing rather than  
6 temporary in nature; and

7           (c) Employer responsibilities for worksite employees,  
8 including those of hiring, firing, and disciplining, are shared  
9 between the professional employer organization and the client  
10 by contract. The term professional employer agreement shall not  
11 include a contract between a parent corporation, company, or other  
12 entity and a wholly owned subsidiary;

13           (21) Professional employer organization means any  
14 individual, partnership, limited liability company, corporation, or  
15 other legally recognized entity that enters into a professional  
16 employer agreement with a client or clients for a majority of a  
17 client's workforce at a client worksite. The term professional  
18 employer organization does not include an insurer as defined in  
19 section 44-103 or a temporary help firm;

20           (22) State includes, in addition to the states of the  
21 United States of America, any dependency of the United States, the  
22 Commonwealth of Puerto Rico, the Virgin Islands, and the District  
23 of Columbia;

24           (23) State unemployment insurance tax means that portion  
25 of the combined tax which is based upon the state unemployment  
26 insurance tax rate portion of the combined tax rate and which  
27 is deposited in the State Unemployment Insurance Trust Fund as

1 required by sections 48-648 and 48-649;

2 (24) State unemployment insurance tax rate means the  
3 percentage of the combined tax rate used to determine the state  
4 unemployment insurance tax portion of the combined tax;

5 (25) Temporary employee means an employee of a temporary  
6 help firm assigned to work for the clients of such temporary help  
7 firm;

8 (26) Temporary help firm means a firm that hires  
9 its own employees and assigns them to clients to support or  
10 supplement the client's work force in work situations such as  
11 employee absences, temporary skill shortages, seasonal workloads,  
12 and special assignments and projects;

13 (27) Unemployed means an individual during any week in  
14 which the individual performs no service and with respect to which  
15 no wages are payable to the individual or any week of less than  
16 full-time work if the wages payable with respect to such week are  
17 less than the individual's weekly benefit amount, but does not  
18 include any individual on a leave of absence or on paid vacation  
19 leave. When an agreement between the employer and a bargaining unit  
20 representative does not allocate vacation pay allowance or pay in  
21 lieu of vacation to a specified period of time during a period of  
22 temporary layoff or plant shutdown, the payment by the employer or  
23 his or her designated representative will be deemed to be wages  
24 as defined in this section in the week or weeks the vacation is  
25 actually taken;

26 (28) Unemployment Trust Fund means the trust fund in the  
27 Treasury of the United States of America established under section

1 904 of the federal Social Security Act, 42 U.S.C. 1104, as such  
2 section existed on March 2, 2001, which receives credit from the  
3 state Unemployment Compensation Fund;

4 (29) Wages, except with respect to services performed in  
5 employment as provided in subdivisions (4)(c) and (d) of section  
6 48-604, means all remuneration for personal services, including  
7 commissions and bonuses, remuneration for personal services paid  
8 under a contract of hire, and the cash value of all remunerations  
9 in any medium other than cash. The reasonable cash value of  
10 remuneration in any medium other than cash shall be estimated and  
11 determined in accordance with rules and regulations prescribed by  
12 the commissioner. After December 31, 1985, wages includes tips  
13 which are received while performing services which constitute  
14 employment and which are included in a written statement furnished  
15 to the employer pursuant to section 6053(a) of the Internal Revenue  
16 Code as defined in section 49-801.01.

17 With respect to services performed in employment in  
18 agricultural labor as is provided in subdivision (4)(c) of section  
19 48-604, wages means cash remuneration and the cash value of  
20 commodities not intended for personal consumption by the worker  
21 and his or her immediate family for such services. With respect  
22 to services performed in employment in domestic service as is  
23 provided in subdivision (4)(d) of section 48-604, wages means cash  
24 remuneration for such services.

25 The term wages does not include:

26 (a) The amount of any payment, including any amount paid  
27 by an employer for insurance or annuities or into a fund to

1 provide for such payment, made to, or on behalf of, an individual  
2 in employment or any of his or her dependents under a plan  
3 or system established by an employer which makes provision for  
4 such individuals generally or for a class or classes of such  
5 individuals, including any amount paid by an employer for insurance  
6 or annuities or into a fund to provide for any such payment, on  
7 account of (i) sickness or accident disability, except, in the case  
8 of payments made to an employee or any of his or her dependents,  
9 this subdivision (i) shall exclude from wages only payments which  
10 are received under a workers' compensation law, (ii) medical and  
11 hospitalization expenses in connection with sickness or accident  
12 disability, or (iii) death;

13 (b) The payment by an employer, without deduction from  
14 the remuneration of the employee, of the tax imposed upon an  
15 employee under section 3101 of the Internal Revenue Code as defined  
16 in section 49-801.01;

17 (c) Any payment on account of sickness or accident  
18 disability, or medical or hospitalization expenses in connection  
19 with sickness or accident disability, made by an employer to, or  
20 on behalf of, an individual after the expiration of six calendar  
21 months following the last calendar month in which such individual  
22 worked for such employer;

23 (d) Any payment made to, or on behalf of, an individual  
24 or his or her beneficiary (i) from or to a trust described in  
25 section 401(a) of the Internal Revenue Code as defined in section  
26 49-801.01 which is exempt from tax under section 501(a) of the  
27 Internal Revenue Code as defined in section 49-801.01 at the time

1 of such payment unless such payment is made to an employee of the  
2 trust as remuneration for services rendered as such employee and  
3 not as a beneficiary of the trust or (ii) under or to an annuity  
4 plan which, at the time of such payment, meets the requirements  
5 of section 401 of the Internal Revenue Code as defined in section  
6 49-801.01;

7 (e) Any payment made to, or on behalf of, an employee  
8 or his or her beneficiary (i) under a simplified employee pension  
9 as defined by the commissioner, (ii) under or to an annuity  
10 contract as defined by the commissioner, other than a payment  
11 for the purchase of such contract which is made by reason of  
12 a salary reduction agreement, whether evidenced by a written  
13 instrument or otherwise, (iii) under or to an exempt governmental  
14 deferred compensation plan as defined by the commissioner, (iv)  
15 to supplement pension benefits under a plan or trust, as defined  
16 by the commissioner, to take into account some portion or all of  
17 the increase in the cost of living since retirement, but only if  
18 such supplemental payments are under a plan which is treated as a  
19 welfare plan, or (v) under a cafeteria benefits plan;

20 (f) Remuneration paid in any medium other than cash to an  
21 individual for service not in the course of the employer's trade or  
22 business;

23 (g) Benefits paid under a supplemental unemployment  
24 benefit plan which satisfies the eight points set forth in Internal  
25 Revenue Service Revenue Ruling 56-249 as the ruling existed on  
26 March 2, 2001, and is in compliance with the standards set forth in  
27 Internal Revenue Service Revenue Rulings 58-128 and 60-330 as the

1 rulings existed on March 2, 2001; and

2 (h) Remuneration for service performed in the employ of  
3 any state in the exercise of his or her duties as a member of the  
4 Army National Guard or Air National Guard or in the employ of the  
5 United States of America as a member of any military reserve unit;

6 (30) Week means such period of seven consecutive days as  
7 the commissioner may by rule and regulation prescribe;

8 (31) Week of unemployment with respect to any individual  
9 means any week during which he or she performs less than full-time  
10 work and the wages payable to him or her with respect to such week  
11 are less than his or her weekly benefit amount;

12 (32) Wholly owned subsidiary means a corporation,  
13 company, or other entity which has eighty percent or more of  
14 its outstanding voting stock or membership owned or controlled,  
15 directly or indirectly, by the parent entity; and

16 (33) Worksite employee means a person receiving wages or  
17 benefits from a professional employer organization pursuant to the  
18 terms of a professional employer agreement for work performed at a  
19 client's worksite.

20 Sec. 3. Section 48-627, Revised Statutes Cumulative  
21 Supplement, 2008, is amended to read:

22 48-627 An unemployed individual shall be eligible to  
23 receive benefits with respect to any week, only if the Commissioner  
24 of Labor finds:

25 (1) He or she has registered for work at, and thereafter  
26 continued to report at, an employment office in accordance with  
27 such rules and regulations as the commissioner may prescribe,

1 except that the commissioner may, by rule and regulation, waive or  
2 alter either or both of the requirements of this subdivision as to  
3 individuals attached to regular jobs and as to such other types of  
4 cases or situations, with respect to which he or she finds that  
5 compliance with such requirements, would be oppressive, or would  
6 be inconsistent with the purposes of the Employment Security Law,  
7 except that no such rule or regulation shall conflict with section  
8 48-623;

9 (2) He or she has made a claim for benefits, in  
10 accordance with section 48-629;

11 (3) He or she is able to work and is available for  
12 work. No individual, who is otherwise eligible, shall be deemed  
13 ineligible, or unavailable for work, because he or she is on  
14 vacation without pay during such week, if such vacation is not  
15 the result of his or her own action as distinguished from  
16 any collective action by a collective-bargaining agent or other  
17 action beyond his or her individual control, and regardless of  
18 whether he or she has not been notified of the vacation at  
19 the time of his or her hiring. An individual who is otherwise  
20 eligible shall not be deemed ineligible or unavailable for work  
21 or failing to engage in an active work search solely because such  
22 individual is seeking part-time work if the majority of the weeks  
23 of work in an individual's base period include part-time work. For  
24 purposes of this subdivision, seeking only part-time work shall  
25 mean seeking less than full-time work having comparable hours to  
26 the individual's part-time work in the base period, except that the  
27 individual must be available for work at least twenty hours per

1 week. Receipt of a non-service-connected total disability pension  
2 by a veteran at the age of sixty-five or more shall not of itself  
3 bar the veteran from benefits as not able to work. An otherwise  
4 eligible individual while engaged in a training course approved for  
5 him or her by the commissioner shall be considered available for  
6 work for the purposes of this section. An inmate in a penal or  
7 custodial institution shall be considered unavailable for work for  
8 purposes of this section;

9 (4) He or she has been unemployed for a waiting period  
10 of one week. No week shall be counted as a week of unemployment  
11 for the purpose of this subdivision (a) unless it occurs within  
12 the benefit year, which includes the week with respect to which he  
13 or she claims payment of benefits, (b) if benefits have been paid  
14 with respect thereto, or (c) unless the individual was eligible  
15 for benefits with respect thereto, as provided in sections 48-627  
16 and 48-628, except for the requirements of this subdivision and of  
17 subdivision (6) of section 48-628;

18 ~~(5) For any benefit year beginning on or before December~~  
19 ~~31, 2005, he or she has, within his or her base period, been paid~~  
20 ~~a total sum of wages for employment by employers equal to not less~~  
21 ~~than one thousand six hundred dollars, of which sum at least eight~~  
22 ~~hundred dollars has been paid in each of two quarters in his or her~~  
23 ~~base period, and subsequent to filing the claim which establishes~~  
24 ~~the previous benefit year, the individual has insured work in at~~  
25 ~~least four weeks.~~ (5) (a) For any benefit year beginning on or after  
26 January 1, 2006, he or she has, within his or her base period,  
27 been paid a total sum of wages for employment by employers equal to

1 not less than two thousand five hundred dollars, of which sum at  
2 least eight hundred dollars has been paid in each of two quarters  
3 in his or her base period, and subsequent to filing the claim which  
4 establishes the previous benefit year, the individual has earned  
5 wages in insured work of at least six times his or her weekly  
6 benefit amount for the previous benefit year.

7 (b) For any benefit year beginning on or after July 1,  
8 2011, he or she has (i) within his or her base period, been paid  
9 a total sum of wages for employment by employers equal to not  
10 less than three thousand seven hundred dollars, of which sum at  
11 least one thousand eight hundred fifty dollars has been paid in  
12 one quarter in his or her base period and eight hundred dollars  
13 has been paid in a second quarter of his or her base period, and  
14 (ii) subsequent to filing the claim which establishes the previous  
15 benefit year, the individual has earned wages in insured work of at  
16 least six times his or her weekly benefit amount for the previous  
17 benefit year. Commencing January 1, ~~2007,~~ 2012, and each January  
18 1 thereafter, the amount which an individual is required to earn  
19 within his or her base period shall be adjusted annually. The  
20 adjusted amount shall be equal to the then current amount adjusted  
21 by the cumulative percentage change in the Consumer Price Index  
22 for All Urban Consumers published by the Federal Bureau of Labor  
23 Statistics for the one-year period ending on the previous September  
24 30.

25 (c) For the purposes of this subdivision (5), (i) for  
26 the determination of monetary eligibility, wages paid within a  
27 base period shall not include wages from any calendar quarter

1 previously used to establish a valid claim for benefits, (ii)  
2 ~~(a)~~ wages shall be counted as wages for insured work for benefit  
3 purposes with respect to any benefit year only if such benefit year  
4 begins subsequent to the date on which the employer, by whom such  
5 wages were paid, has satisfied the conditions of section 48-603  
6 or subsection (3) of section 48-661, with respect to becoming  
7 an employer, and ~~(b)~~ (iii) with respect to weeks of unemployment  
8 beginning on or after January 1, 1978, wages for insured work for  
9 benefit purposes with respect to any benefit year shall include  
10 wages paid for services as defined by subdivision (4) (a), (b), (c),  
11 or (d) of section 48-604 to the extent that such services were not  
12 services in employment under subdivision (4) (a) of section 48-604  
13 or section 48-661 immediately prior to September 2, 1977, even  
14 though the employer by whom such wages were paid had not satisfied  
15 the conditions of subdivision (8), (9), (10), or (11) of section  
16 48-603 with respect to becoming an employer at the time such wages  
17 were paid except to the extent that assistance under Title II of  
18 the federal Emergency Jobs and Unemployment Assistance Act of 1974  
19 was paid on the basis of such services; and

20 (6) He or she is participating in reemployment services  
21 at no cost to such individual as directed by the commissioner,  
22 such as job search assistance services, if the individual has been  
23 determined to be likely to exhaust regular benefits and to need  
24 reemployment services pursuant to a profiling system established  
25 by rule and regulation of the commissioner which is in compliance  
26 with section 303(j) (1) of the federal Social Security Act, unless  
27 the commissioner determines that: (a) The individual has completed

1 such services; or (b) there is justifiable cause for the claimant's  
2 failure to participate in such services.

3 Sec. 4. Section 48-628, Revised Statutes Cumulative  
4 Supplement, 2008, is amended to read:

5 48-628 An individual shall be disqualified for benefits:

6 (1) (a) For the week in which he or she has left work  
7 voluntarily without good cause, if so found by the commissioner,  
8 and for the ~~twelve~~ thirteen weeks which immediately follow such  
9 week. A temporary employee of a temporary help firm has left work  
10 voluntarily without good cause if the temporary employee does not  
11 contact the temporary help firm for reassignment upon completion  
12 of an assignment and the temporary employee has been advised by  
13 the temporary help firm of his or her obligation to contact the  
14 temporary help firm upon completion of assignments and has been  
15 advised by the temporary help firm that the temporary employee may  
16 be denied benefits for failure to do so; or

17 (b) For the week in which he or she has left work  
18 voluntarily for the sole purpose of accepting previously secured,  
19 permanent, full-time, insured work, which he or she does accept,  
20 which offers a reasonable expectation of betterment of wages or  
21 working conditions, or both, and for which he or she earns wages  
22 payable to him or her, if so found by the commissioner, and for ~~not~~  
23 ~~more than one week~~ the two weeks which immediately follows follow  
24 such week;

25 (2) For the week in which he or she has been discharged  
26 for misconduct connected with his or her work, if so found  
27 by the commissioner, and for the ~~twelve~~ fourteen weeks which

1 immediately follow such week. If the commissioner finds that  
2 such individual's misconduct was gross, flagrant, and willful,  
3 or was unlawful, the commissioner shall totally disqualify such  
4 individual from receiving benefits with respect to wage credits  
5 earned prior to discharge for such misconduct. In addition to the  
6 ~~twelve-week~~ fourteen-week benefit disqualification assessed under  
7 this subdivision, the commissioner shall cancel all wage credits  
8 earned as a result of employment with the discharging employer  
9 if the commissioner finds that the individual was discharged  
10 for misconduct in connection with the work which was not gross,  
11 flagrant, and willful or unlawful but which included being under  
12 the influence of any intoxicating beverage or being under the  
13 influence of any controlled substance listed in section 28-405 not  
14 prescribed by a physician licensed to practice medicine or surgery  
15 when the individual is so under the influence on the worksite or  
16 while engaged in work for the employer;

17 (3) (a) For any week of unemployment in which he or she  
18 has failed, without good cause, to apply for available, suitable  
19 work when so directed by the employment office or the commissioner,  
20 to accept suitable work offered him or her, or to return to his  
21 or her customary self-employment, if any, and the commissioner so  
22 finds, and for the twelve weeks which immediately follow such week,  
23 and his or her total benefit amount to which he or she is then  
24 entitled shall be reduced by an amount equal to the number of weeks  
25 for which he or she has been disqualified by the commissioner.

26 (b) In determining whether or not any work is suitable  
27 for an individual, the commissioner shall consider the degree of

1 risk involved to the individual's health, safety, and morals, his  
2 or her physical fitness and prior training, his or her experience  
3 and prior earnings, his or her length of unemployment and prospects  
4 for securing local work in his or her customary occupation, and the  
5 distance of the available work from his or her residence.

6 (c) Notwithstanding any other provisions of the  
7 Employment Security Law, no work shall be deemed suitable and  
8 benefits shall not be denied under such law to any otherwise  
9 eligible individual for refusing to accept new work under any of  
10 the following conditions: (i) If the position offered is vacant  
11 due directly to a strike, lockout, or other labor dispute; (ii)  
12 if the wages, hours, or other conditions of the work offered  
13 are substantially less favorable to the individual than those  
14 prevailing for similar work in the locality; or (iii) if, as a  
15 condition of being employed, the individual would be required to  
16 join a company union or to resign from or refrain from joining any  
17 bona fide labor organization.

18 (d) Notwithstanding any other provisions in subdivision  
19 (3) of this section, no otherwise eligible individual shall be  
20 denied benefits with respect to any week in which he or she is in  
21 training with the approval of the commissioner, by reason of the  
22 application of the provisions in subdivision (3) of this section  
23 relating to failure to apply for or a refusal to accept suitable  
24 work.

25 (e) No individual shall be disqualified for refusing  
26 to apply for available, full-time work or accept full-time work  
27 under subdivision (3)(a) of this section solely because such

1 individual is seeking part-time work if the majority of the weeks  
2 of work in an individual's base period include part-time work. For  
3 purposes of this subdivision, seeking only part-time work shall  
4 mean seeking less than full-time work having comparable hours to  
5 the individual's part-time work in the base period, except that the  
6 individual must be available for work at least twenty hours per  
7 week;

8 (4) For any week with respect to which the commissioner  
9 finds that his or her total unemployment is due to a stoppage  
10 of work which exists because of a labor dispute at the factory,  
11 establishment, or other premises at which he or she is or was  
12 last employed, except that this subdivision shall not apply if  
13 it is shown to the satisfaction of the commissioner that (a)  
14 the individual is not participating in, financing, or directly  
15 interested in the labor dispute which caused the stoppage of work  
16 and (b) he or she does not belong to a grade or class of workers of  
17 which, immediately before the commencement of the stoppage, there  
18 were members employed at the premises at which the stoppage occurs,  
19 any of whom are participating, financing, or directly interested in  
20 the dispute. If in any case, separate branches of work, which are  
21 commonly conducted as separate businesses in separate premises, are  
22 conducted in separate departments of the same premises, each such  
23 department shall, for the purposes of this subdivision, be deemed  
24 to be a separate factory, establishment, or other premises;

25 (5) For any week with respect to which he or she  
26 is receiving or has received remuneration in the form of (a)  
27 wages in lieu of notice, or a dismissal or separation allowance,

1 (b) compensation for temporary disability under the workers'  
2 compensation law of any state or under a similar law of the  
3 United States, (c) retirement or retired pay, pension, annuity,  
4 or other similar periodic payment under a plan maintained or  
5 contributed to by a base period or chargeable employer, or (d)  
6 a gratuity or bonus from an employer, paid after termination of  
7 employment, on account of prior length of service, or disability  
8 not compensated under the workers' compensation law. Such payments  
9 made in lump sums shall be prorated in an amount which is  
10 reasonably attributable to such week. If the prorated remuneration  
11 is less than the benefits which would otherwise be due, he or she  
12 shall be entitled to receive for such week, if otherwise eligible,  
13 benefits reduced by the amount of such remuneration. The prorated  
14 remuneration shall be considered wages for the quarter to which it  
15 is attributable. Military service-connected disability compensation  
16 payable under 38 U.S.C. chapter 11 and primary insurance benefits  
17 payable under Title II of the Social Security Act, as amended,  
18 or similar payments under any act of Congress shall not be deemed  
19 to be disqualifying or deductible from the benefit amount. No  
20 deduction shall be made for the part of any retirement pension  
21 which represents return of payments made by the individual. In the  
22 case of a transfer by an individual or his or her employer of an  
23 amount from one retirement plan to a second qualified retirement  
24 plan under the Internal Revenue Code, the amount transferred shall  
25 not be deemed to be received by the claimant until actually paid  
26 from the second retirement plan to the claimant. No deduction shall  
27 be made for any benefit received under a supplemental unemployment

1 benefit plan described in subdivision (29)(g) of section 48-602;

2 (6) For any week with respect to which or a part of which  
3 he or she has received or is seeking unemployment benefits under an  
4 unemployment compensation law of any other state or of the United  
5 States, except that if the appropriate agency of such other state  
6 or of the United States finally determines that he or she is not  
7 entitled to such unemployment benefits, this disqualification shall  
8 not apply;

9 (7) For any week of unemployment if such individual is  
10 a student. For the purpose of this subdivision, student shall  
11 mean an individual registered for full attendance at and regularly  
12 attending an established school, college, or university, unless the  
13 major portion of his or her wages for insured work during his or  
14 her base period was for services performed while attending school,  
15 except that attendance for training purposes under a plan approved  
16 by the commissioner for such individual shall not be disqualifying;

17 (8) For any week of unemployment if benefits claimed are  
18 based on services performed:

19 (a) In an instructional, research, or principal  
20 administrative capacity for an educational institution, if such  
21 week commences during the period between two successive academic  
22 years or terms, or when an agreement provides instead for a similar  
23 period between two regular, but not successive, terms during such  
24 period, if such individual performs such services in the first  
25 of such academic years or terms and if there is a contract or  
26 reasonable assurance that such individual will perform services in  
27 any such capacity for any educational institution in the second of

1 such academic years or terms;

2 (b) In any other capacity for an educational institution,  
3 if such week commences during a period between two successive  
4 academic years or terms, if such individual performs such services  
5 in the first of such academic years or terms, and if there is  
6 a reasonable assurance that such individual will perform such  
7 services in the second of such academic years or terms, except  
8 that if benefits are denied to any individual for any week under  
9 subdivision (8)(b) of this section and such individual was not  
10 offered an opportunity to perform such services for the educational  
11 institution for the second of such academic years or terms, such  
12 individual shall be entitled to a retroactive payment of the  
13 benefits for each week for which the individual filed a timely  
14 claim for benefits and for which benefits were denied solely by  
15 reason of subdivision (8)(b) of this section;

16 (c) In any capacity described in subdivision (8)(a) or  
17 (b) of this section if such week commences during an established  
18 and customary vacation period or holiday recess if such individual  
19 performs such services in the period immediately before such  
20 vacation period or holiday recess, and there is a reasonable  
21 assurance that such individual will perform such services in  
22 the period immediately following such vacation period or holiday  
23 recess;

24 (d) In any capacity described in subdivision (8)(a) or  
25 (b) of this section in an educational institution while in the  
26 employ of an educational service agency, and such individual shall  
27 be disqualified as specified in subdivisions (8)(a), (b), and (c)

1 of this section. As used in this subdivision, educational service  
2 agency shall mean a governmental agency or governmental entity  
3 which is established and operated exclusively for the purpose of  
4 providing services to one or more educational institutions; and

5 (e) In any capacity described in subdivision (8)(a) or  
6 (b) of this section in an educational institution if such services  
7 are provided to or on behalf of the educational institution while  
8 in the employ of an organization or entity described in section  
9 3306(c)(7) or 3306(c)(8) of the Federal Unemployment Tax Act, 26  
10 U.S.C. 3306(c)(7) or (8), and such individual shall be disqualified  
11 as specified in subdivisions (8)(a), (b), and (c) of this section;

12 (9) For any week of unemployment benefits if  
13 substantially all the services upon which such benefits are based  
14 consist of participating in sports or athletic events or training  
15 or preparing to so participate, if such week of unemployment begins  
16 during the period between two successive sport seasons or similar  
17 periods, if such individual performed such services in the first  
18 of such seasons or similar periods, and if there is a reasonable  
19 assurance that such individual will perform such services in the  
20 later of such seasons or similar periods;

21 (10) For any week of unemployment benefits if the  
22 services upon which such benefits are based are performed by an  
23 alien unless such alien is an individual who was lawfully admitted  
24 for permanent residence at the time such services were performed,  
25 was lawfully present for purposes of performing such services, or  
26 was permanently residing in the United States under color of law  
27 at the time such services were performed, including an alien who

1 was lawfully present in the United States as a result of the  
2 application of section 212(d)(5) of the Immigration and Nationality  
3 Act, 8 U.S.C. 1182(d)(5). Any data or information required of  
4 individuals applying for benefits to determine whether benefits  
5 are not payable to them because of their alien status shall be  
6 uniformly required from all applicants for benefits. In the case  
7 of an individual whose application for benefits would otherwise be  
8 approved, no determination that benefits to such individual are not  
9 payable because of his or her alien status shall be made except  
10 upon a preponderance of the evidence;

11           (11) Notwithstanding any other provisions of the  
12 Employment Security Law, no otherwise eligible individual shall  
13 be denied benefits for any week because he or she is in training  
14 approved under section 236(a)(1) of the federal Trade Act of 1974,  
15 19 U.S.C. 2296(a)(1), nor shall such individual be denied benefits  
16 by reason of leaving work to enter such training, if the work left  
17 is not suitable employment, or because of the application to any  
18 such week in training of provisions of the Employment Security Law,  
19 or any applicable federal unemployment compensation law, relating  
20 to availability for work, active search for work, or refusal to  
21 accept work. For purposes of this subdivision, suitable employment  
22 shall mean, with respect to an individual, work of a substantially  
23 equal or higher skill level than the individual's past adversely  
24 affected employment, as defined for purposes of the federal Trade  
25 Act of 1974, and wages for such work at not less than eighty  
26 percent of the individual's average weekly wage as determined for  
27 purposes of such act;

1           (12) For any week during which the individual is on a  
2 leave of absence; and

3           (13) For any week of unemployment benefits or for waiting  
4 week credit if he or she has been disqualified from the receipt  
5 of benefits pursuant to section 48-663.01 two or more times in  
6 the five-year period immediately prior to filing his or her most  
7 recent claim. This subdivision shall not apply if the individual  
8 has repaid in full any overpayments established in conjunction with  
9 the disqualifications assessed under section 48-663.01 during that  
10 five-year period.

11           Sec. 5. (1) In addition to any other unemployment  
12 benefits to which an individual is entitled under the Employment  
13 Security Law, an individual who has exhausted all regular  
14 unemployment benefits for which he or she has been determined  
15 eligible shall continue to be eligible for up to twenty-six  
16 additional weeks of unemployment benefits if such individual:

17           (a) (i) Was involuntarily separated from employment as a  
18 result of a permanent reduction of operations at the individual's  
19 place of employment or (ii) his or her unemployment is the result  
20 of a separation from a declining occupation;

21           (b) Is enrolled and making satisfactory progress in a (i)  
22 training program approved for him or her by the commissioner or  
23 (ii) job training program authorized under the Workforce Investment  
24 Act of 1998, as amended;

25           (c) The individual is receiving training which is  
26 preparing the individual for entry into a high demand occupation;

27           (d) The individual is enrolled in training no later

1 than the end of the benefit year established with respect  
2 to the separation that makes the individual eligible for the  
3 training benefit. Individuals shall be notified of the enrollment  
4 requirement at the time of their initial determination of  
5 eligibility for regular benefits; and

6 (e) The individual is not receiving similar stipends or  
7 other training allowances for nontraining costs. Similar stipend  
8 shall mean an amount provided under a program with similar aims,  
9 such as providing training to increase employability, and in  
10 approximately the same amounts.

11 (2) The amount of unemployment benefits payable to an  
12 individual for a week of unemployment under this section shall  
13 be equal to the amount of unemployment benefits which he or she  
14 has been determined eligible for under section 48-624 less any  
15 deductions or offsets authorized under the Employment Security Law.

16 (3) If an individual begins to receive unemployment  
17 compensation under this section while enrolled in a training  
18 program described in subsection (1) of this section during a  
19 benefit year, such individual shall continue to receive such  
20 benefits so long as he or she continues to make satisfactory  
21 progress in such training program, except that such benefits shall  
22 not exceed twenty-six times the individual's weekly benefit amount  
23 for the most recent benefit year as determined under section  
24 48-624.

25 (4) No benefits shall be payable under this section until  
26 the individual has exhausted all (a) regular unemployment benefits,  
27 (b) extended benefits as defined in subdivision (6) of section

1 48-628.02, and (c) unemployment benefits paid entirely from federal  
2 funds to which he or she is entitled including, but not limited to,  
3 trade readjustment assistance, emergency unemployment compensation,  
4 or other similar federally funded unemployment benefits.

5 (5) For purposes of this section, regular unemployment  
6 benefits means all unemployment benefits for which an individual  
7 is eligible payable under sections 48-624 to 48-626, extended  
8 unemployment benefits payable under section 48-628.02, and any  
9 unemployment benefits funded solely by the federal government.

10 Sec. 6. Section 48-652, Revised Statutes Supplement,  
11 2009, is amended to read:

12 48-652 (1)(a) A separate experience account shall be  
13 established for each employer who is liable for payment of  
14 contributions. Whenever and wherever in the Employment Security  
15 Law the terms reserve account or experience account are used,  
16 unless the context clearly indicates otherwise, such terms shall be  
17 deemed interchangeable and synonymous and reference to either of  
18 such accounts shall refer to and also include the other.

19 (b) A separate reimbursement account shall be established  
20 for each employer who is liable for payments in lieu of  
21 contributions. All benefits paid with respect to service in  
22 employment for such employer shall be charged to his or her  
23 reimbursement account and such employer shall be billed for and  
24 shall be liable for the payment of the amount charged when billed  
25 by the commissioner. Payments in lieu of contributions received  
26 by the commissioner on behalf of each such employer shall be  
27 credited to such employer's reimbursement account, and two or more

1 employers who are liable for payments in lieu of contributions may  
2 jointly apply to the commissioner for establishment of a group  
3 account for the purpose of sharing the cost of benefits paid that  
4 are attributable to service in the employ of such employers. The  
5 commissioner shall prescribe such rules and regulations as he or  
6 she deems necessary with respect to applications for establishment,  
7 maintenance, and termination of group accounts authorized by this  
8 subdivision.

9           (2) All contributions paid by an employer shall be  
10 credited to the experience account of such employer. State  
11 unemployment insurance tax payments shall not be credited to  
12 the experience account of each employer. Partial payments of  
13 combined tax shall be credited so that at least eighty percent  
14 of the combined tax payment excluding interest and penalty is  
15 credited first to contributions due. In addition to contributions  
16 credited to the experience account, each employer's account shall  
17 be credited as of June 30 of each calendar year with interest  
18 at a rate determined by the commissioner based on the average  
19 annual interest rate paid by the Secretary of the Treasury of  
20 the United States of America upon the state's account in the  
21 Unemployment Trust Fund for the preceding calendar year multiplied  
22 by the balance in his or her experience account at the beginning  
23 of such calendar year. If the total credits as of such date to  
24 all employers' experience accounts are equal to or greater than  
25 ninety percent of the total amount in the Unemployment Compensation  
26 Fund, no interest shall be credited for that year to any employer's  
27 account. Contributions with respect to prior years which are

1 received on or before January 31 of any year shall be considered  
2 as having been paid at the beginning of the calendar year. All  
3 voluntary contributions which are received on or before January  
4 10 of any year shall be considered as having been paid at the  
5 beginning of the calendar year.

6 (3) (a) Each experience account shall be charged only  
7 for benefits based upon wages paid by such employer. No benefits  
8 shall be charged to the experience account of any employer if (i)  
9 such benefits were paid on the basis of a period of employment  
10 from which the claimant (A) left work voluntarily without good  
11 cause, (B) left work voluntarily due to a nonwork-connected illness  
12 or injury, (C) left work voluntarily with good cause to escape  
13 abuse as defined in section 42-903 between household members as  
14 provided in subdivision (1) of section 48-628.01, (D) left work  
15 from which he or she was discharged for misconduct connected with  
16 his or her work, ~~or~~ (E) left work voluntarily and is entitled to  
17 unemployment benefits without disqualification in accordance with  
18 subdivision (3) or (5) of section 48-628.01, or (F) such benefits  
19 were paid pursuant to section 5 of this act, and (ii) the employer  
20 has filed timely notice of the facts on which such exemption is  
21 claimed in accordance with rules and regulations prescribed by  
22 the commissioner. No benefits shall be charged to the experience  
23 account of any employer if such benefits were paid on the basis  
24 of wages paid in the base period that are wages for insured  
25 work solely by reason of subdivision (5) (b) of section 48-627. No  
26 benefits shall be charged to the experience account of any employer  
27 if such benefits were paid during a week when the individual was

1 participating in training approved under section 236(a)(1) of the  
2 federal Trade Act of 1974, 19 U.S.C. 2296(a)(1).

3 (b) Each reimbursement account shall be charged only for  
4 benefits paid that were based upon wages paid by such employer in  
5 the base period that were wages for insured work solely by reason  
6 of subdivision (5) of section 48-627.

7 (c) Benefits paid to an eligible individual shall be  
8 charged against the account of his or her most recent employers  
9 within his or her base period against whose accounts the maximum  
10 charges hereunder have not previously been made in the inverse  
11 chronological order in which the employment of such individual  
12 occurred. The maximum amount so charged against the account of any  
13 employer, other than an employer for which services in employment  
14 as provided in subdivision (4)(a) of section 48-604 are performed,  
15 shall not exceed the total benefit amount to which such individual  
16 was entitled as set out in section 48-626 with respect to base  
17 period wages of such individual paid by such employer plus one-half  
18 the amount of extended benefits paid to such eligible individual  
19 with respect to base period wages of such individual paid by  
20 such employer. The commissioner shall by rules and regulations  
21 prescribe the manner in which benefits shall be charged against  
22 the account of several employers for whom an individual performed  
23 employment during the same quarter or during the same base period.  
24 Any benefit check duly issued and delivered or mailed to a claimant  
25 and not presented for payment within one year from the date of its  
26 issue may be invalidated and the amount thereof credited to the  
27 Unemployment Compensation Fund, except that a substitute check may

1 be issued and charged to the fund on proper showing at any time  
2 within the year next following. Any charge made to an employer's  
3 account for any such invalidated check shall stand as originally  
4 made.

5 (4) (a) An employer's experience account shall be deemed  
6 to be terminated one calendar year after such employer has ceased  
7 to be subject to the Employment Security Law, except that if the  
8 commissioner finds that an employer's business is closed solely  
9 because of the entrance of one or more of the owners, officers,  
10 partners, or limited liability company members or the majority  
11 stockholder into the armed forces of the United States, or of any  
12 of its allies, after July 1, 1950, such employer's account shall  
13 not be terminated and, if the business is resumed within two years  
14 after the discharge or release from active duty in the armed forces  
15 of such person or persons, the employer's experience account shall  
16 be deemed to have been continuous throughout such period.

17 (b) An experience account terminated pursuant to this  
18 subsection shall be reinstated if (i) the employer becomes subject  
19 again to the Employment Security Law within one calendar year after  
20 termination of such experience account and the employer makes a  
21 written application for reinstatement of such experience account  
22 to the commissioner within two calendar years after termination of  
23 such experience account and (ii) the commissioner finds that the  
24 employer is operating substantially the same business as prior to  
25 the termination of such experience account.

26 (5) All money in the Unemployment Compensation Fund shall  
27 be kept mingled and undivided. The payment of benefits to an

1 individual shall in no case be denied or withheld because the  
2 experience account of any employer does not have a total of  
3 contributions paid in excess of benefits charged to such experience  
4 account.

5 (6) A contributory or reimbursable employer shall be  
6 relieved of charges if the employer was previously charged for  
7 wages and the same wages are being used a second time to establish  
8 a new claim as a result of the October 1, 1988, change in the base  
9 period.

10 (7) If an individual's base period wage credits  
11 represent part-time employment for a contributory employer and  
12 the contributory employer continues to employ the individual to  
13 the same extent as during the base period, then the contributory  
14 employer's experience account shall not be charged if the  
15 contributory employer has filed timely notice of the facts on which  
16 such exemption is claimed in accordance with rules and regulations  
17 prescribed by the commissioner.

18 Sec. 7. This act becomes operative on July 1, 2011.

19 Sec. 8. Original sections 48-601, 48-602, 48-627, and  
20 48-628, Revised Statutes Cumulative Supplement, 2008, and section  
21 48-652, Revised Statutes Supplement, 2009, are repealed.